

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	MDL No. 1456
LITIGATION	)	
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THIS DOCUMENT RELATES TO ALL	)	CIVIL ACTION: 01-CV-12257-PBS
CLASS ACTIONS	)	Judge Patti B. Saris
	)	
	)	

**PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL**

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file (a) Class Plaintiffs' Memorandum in Support of Their Motion to Strike the Sur-Reply Declaration of Steven J. Young; (b) Rebuttal Declaration of Raymond S. Hartman in Response to the Sur-Reply Declaration of Steven J. Young under seal.

Throughout Plaintiffs' memorandum and the Rebuttal Declaration of Raymond S. Hartman are documents and excerpts, that have been identified by certain Defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. If the documents themselves are not quoted information derived from them in which under the terms of the Protective Order requires that those portions be sealed. The materials not only quote extensively and/or attach such documents, but also include references to pricing data that defendants and third parties no doubt believe to be highly proprietary in nature. Paragraph 15 of the Protective Order mandates that any document or pleading containing such

information be filed under seal. Plaintiffs hereby comply with the terms of the Protective Order. At this time, Plaintiffs' take no position as to whether the information so designated by defendants is in fact "CONFIDENTIAL" or HIGHLY CONFIDENTIAL and explicitly reserve their right to challenge such designations in accordance with the terms of the Protective Order. Plaintiffs have no doubt however that to comply with the terms of the protective order these materials must be filed under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file their Memorandum in Support of Their Motion to Strike the Sur-Reply Declaration of Steven J. Young and the Rebuttal Declaration of Raymond S. Hartman under seal, and all other relief that this Court deems just and proper.

DATED: March 10, 2005

By /s/ Steve W. Berman

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on March 10, 2005, a copy to Verilaw Technologies for Posting and notification to all parties

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